

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 94-326-C - ORDER NO. 94-1
DECEMBER 30, 1994

IN RE: Application of Western Union) ORDER
Communications, Inc. for a Certificate of) APPROVING
Public Convenience and Necessity for) CERTIFICATE
Authority to Operate as a Reseller of)
Intrastate Interexchange Telecommunications)
Services Within the State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Western Union Communications, Inc. (Western Union or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1993) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Western Union to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Western Union's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Western Union complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were filed by the Consumer Advocate for the State of

South Carolina (the Consumer Advocate) and Southern Bell Telephone & Telegraph (Southern Bell). Southern Bell withdrew its intervention at the time of hearing, after submitting a Stipulation between itself and the Company. (The Stipulation will be discussed infra.)

A hearing was commenced on December 13, 1994, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, presided. Rachel J. Rothstein, Esquire and Deborah R.J. Shupe, Esquire, appeared on behalf of Western Union; Hana Pokorna-Williamson, Esquire, appeared on behalf of the Consumer Advocate; Harry M. Lightsey, Esquire, appeared on behalf of Southern Bell; and F. David Butler, General Counsel, represented the Commission Staff.

In support of its Application, Western Union presented the testimony of Richard D. Jordanger, Corporate Director, Regulatory Affairs for Western Union. Mr. Jordanger explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a non-facilities based reseller through the use of its debit card. Mr. Jordanger described the Company's services, its managerial, technological, and financial resources, and its marketing procedures. Mr. Jordanger also admitted that the Company has been selling its card in South Carolina prior to any authorization to do so from this Commission, and that the card in question was capable of being used to make intrastate calls.

After full consideration of the applicable law, the Company's Application, the evidence presented by the Company and the

Commission Staff, and upon the tariff changes agreed to by the Company at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Western Union is incorporated under the laws of the State of Delaware, and has applied for a Certificate of Authority to Transact Business as a Foreign Corporation in the State of South Carolina. Western Union's parent corporation is First Financial Management Corporation.

2. Western Union operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.

3. Western Union has the experience, capability, and financial resources to provide the services as described in its Application.

4. Western Union has sold its debit card through various sales agents within the State of South Carolina prior to approval by this Commission. The card sold was capable of intrastate use. Western Union voluntarily agrees to pay a \$20,000 monetary penalty.

5. The Stipulation between Western Union and Southern Bell is reasonable and should be approved.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Western Union to provide intrastate interLATA service and to originate and terminate toll traffic in the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications

Services (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, and to sell its debit cards within the State of South Carolina.

2. The Commission adopts a rate design for Western Union for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Western Union shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Western Union shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1993).

4. Western Union is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if they so desire.

6. Western Union shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Western Union changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and the termination of toll traffic in the same LATA, Western Union shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

8. Western Union shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

9. Western Union shall file its revised tariff and accompanying price list reflecting the findings herein and its agreed upon tariff amendments within thirty (30) days of the date of this Order. Further, the tariff shall be filed with the Commission in a loose-leaf binder.

10. Due to the strong financial condition of Western Union's parent corporation, First Financial Management Corporation, and its

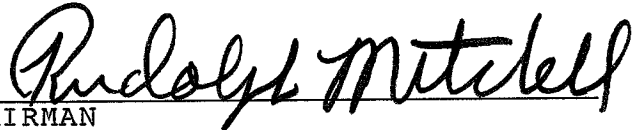
multi-jurisdictional presence, the Commission will not require Western Union to post bond for the protection of the public pursuant to the Company's sale of the debit cards.

11. Because Western Union has sold its cards in South Carolina, said cards being capable of intrastate use, prior to obtaining a Certificate from this Commission, we think Western Union is in violation of our telecommunications law, specifically, S.C. Code Ann. §58-9-230 (1976, as amended), and that the penalty provisions of S.C. Code Ann. §58-9-1610, et. seq. (1976, as amended) are applicable. Section 58-9-1650 requires that an action must be brought in a Court of competent jurisdiction in order to obtain a penalty; however, Western Union has volunteered to remit \$20,000 without the necessity of a Court action. Upon consideration of Western Union's total card sales in South Carolina, and the likely percentage of these sales which end up as intrastate calls, we believe that \$20,000 is a reasonable approximation of the intrastate use of these cards. Therefore, we believe that Western Union should be allowed to remit \$20,000 to the State's General Fund, as a penalty in this matter, and do so order.


12. The Stipulation between Western Union and Southern Bell is fair and reasonable, and should be approved.

13. That this Order shall remain in full force and effect
until further Order of the Commission.

BY ORDER OF THE COMMISSION:


CHAIRMAN

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT
PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR
ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).